

### **STATUS OF RELATED LITIGATION**

Dated September 2, 2003, and attached as Exhibit 1 hereto, is InterTrust's Disclosures of Asserted Claims and Preliminary Infringement Contentions Pursuant to Patent Local Rules 3-1 and 3-2 with Exhibits A and B. Exhibit C has not been provided because (1) it is marked "Confidential - Subject to Protective Order" and "Attorneys Eyes Only" (as it pertains to proprietary Microsoft information); and (2) it is not material to the patentability of the pending claims, as it contains only information pertaining to Microsoft's current products and systems.

On November 17, 2003, Microsoft filed Defendant Microsoft Corporation's Preliminary Invalidity Contentions (Patent Local Rules 3-3 and 3-4). See Exhibit 2.

### **REMARKS**

Applicants submit this Third Updated Notice Regarding Related Litigation in fulfillment of their duty to disclose information potentially material to patentability under 37 CFR 1.56. Applicants encourage the Examiner to carefully review the attached documents, and let Applicants know if any additional information is desired.

With this Notice, Applicants have provided copies of the papers described in the Status of Related Litigation section above. Furthermore, a voluminous number of documents have been referred to in the Microsoft paper attached as Exhibit 2 (specifically, in Exhibit A, attached thereto). All of the references listed in Exhibit A which have not already been cited in this application are listed on an Information Disclosure Statement filed contemporaneously with this Third Updated Notice (March 26, 2004), and copies of the cited documents were provided on CD-ROM therewith.

Furthermore, Applicants urge the Examiner to also review Exhibits B and C, exhibits to Microsoft's Preliminary Invalidity Contentions, which comprise an extensive listing of claim charts pertaining to the patents-in-suit. Exhibits B and C are provided in electronic format (via CD-ROM, sent with this Notice) due to their sizeable page length.

As always, if the Examiner believes that any document not yet submitted may be helpful in resolving an issue before him and would like to review that or any other document, Applicants invite the Examiner to contact the undersigned at (650) 849-6643.

If there are any fees due with the filing of this Notice which have not yet been paid, please charge the fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: March 26, 2004

By: 

Andrew B. Schwaab  
Reg. No. 38,611

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.  
1300 I Street, N.W.  
Washington, D.C. 20005-3315